



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AA Desert Inn
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR-DR-PP

Introduction

This matter proceeded by way of an *ex parte* Direct Request Proceeding, pursuant to section 55(4) of the *Residential Tenancy Act* (the *Act*), and dealt with an Application for Dispute Resolution by the landlord to obtain an Order of Possession based on unpaid rent.

This decision is written based on the Application for Dispute Resolution, evidence, and submissions provided by the landlord on August 30, 2021.

The landlord submitted two signed Proof of Service Notice of Direct Request Proceeding forms which declare that on September 16, 2021, the landlord posted the Notices of Dispute Resolution Proceeding - Direct Request to the door of the rental unit. The landlord had a witness sign the Proof of Service Notice of Direct Request Proceeding forms to confirm this service.

Based on the written submissions of the landlord and in accordance with sections 89 and 90 of the *Act*, I find that the Direct Request Proceeding documents were served on September 16, 2021 and are deemed to have been received by the tenants on September 19, 2021, the third day after their posting.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent pursuant to sections 46 and 55 of the *Act*?

Background and Evidence

I have reviewed all written submissions and evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The landlord submitted the following relevant evidentiary material:

- A copy of a residential tenancy agreement which was signed by the landlord and the tenants on May 1, 2021, indicating a monthly rent of \$1,400.00, due on the first day of each month for a tenancy commencing on May 1, 2021
- Two copies of the second page of a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice)
- A copy of a witnessed Proof of Service Notice to End Tenancy form which indicates that the 10 Day Notice was personally served to the tenants at 11:00 am on August 2, 2021
- A Direct Request Worksheet showing the rent owing and paid during the relevant portion of this tenancy

Analysis

In an *ex parte* Direct Request Proceeding, the onus is on the landlord to ensure that all submitted evidentiary material is in accordance with the prescribed criteria and that such evidentiary material does not lend itself to ambiguity or give rise to issues that may need further clarification beyond the purview of a Direct Request Proceeding. If the landlord cannot establish that all documents meet the standard necessary to proceed via the Direct Request Proceeding, the application may be found to have deficiencies that necessitate a participatory hearing, or, in the alternative, the application may be dismissed.

Section 52 of the *Act* provides the following requirements regarding the form and content of notices to end tenancy:

- 52** *In order to be effective, a notice to end a tenancy must be in writing and must*
- (a) be signed and dated by the landlord or tenant giving the notice,*
 - (b) give the address of the rental unit,*
 - (c) state the effective date of the notice*
 - (d) ... state the grounds for ending the tenancy... and*
 - (e) when given by a landlord, be in the approved form...*

I have reviewed all documentary evidence and I find that the landlord did not submit the first page of the 10 Day Notice. In its place, I find the landlord has submitted a second copy of the second page of the 10 Day Notice.

Without the first page of the 10 Day Notice, I find I am not able to confirm whether the 10 Day Notice complies with the requirements of section 52 of the *Act*.

For this reason, the landlord's application for an Order of Possession for unpaid rent is dismissed with leave to reapply.

Conclusion

I dismiss the landlord's application for an Order of Possession for unpaid rent with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 08, 2021

Residential Tenancy Branch